

Lexington, Kentucky April 21, 2005

The Council of the Lexington-Fayette Urban County Government, Kentucky convened in regular session on April 21, 2005 at 7:00 P.M. Present were Mayor Teresa Ann Isaac in the chair presiding, and the following members of the Council: Council Members Myers, Scanlon, Shafer, Stevens, Stinnett, Wigginton, Brown, Cegelka, DeCamp, Ellinger, Farmer, Gorton, Lane, McChord and Moloney.

The reading of the Minutes of the previous meetings was waived.

Ordinances No. 78-2005 thru 86-2005 inclusive and Resolutions No. 157-2005 thru 189-2005 inclusive were reported as having been signed and published, and were ordered to record.

Lexington, Kentucky April 21, 2005

The Invocation was given by Reverend Paul Brunstetter, Senior Pastor, First United Methodist Church.

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Upon motion of Mr. Farmer and seconded by Ms. Gorton, the minutes of the March 10, 2005 Council Meeting were approved by unanimous vote.

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The following ordinances were given second reading and passed by the following vote:

Aye: Myers, Scanlon, Shafer, Stevens, Stinnett, Wigginton, Brown, Cegelka,
DeCamp, Ellinger, Farmer, Gorton, Lane, McChord, Moloney ----- 15

Nay: _____ 0

An Ordinance changing the zone from an Interchange Service Business (B-5P) zone to a Planned Shopping Center (B-6P) zone for 35.26 net (46.16 gross) acres of property, from an Agricultural Urban (A-U) zone to a Planned Shopping Center (B-6P) zone for 19.86 net (23.14 gross) acres of property, from a Professional Office (P-1) zone to a Planned Shopping Center (B-6P) zone for 1.50 net (1.71 gross) acres of property, and from an Interchange Service Business (B-5P) zone to an Agricultural Urban (A-U) zone for 5.19 net (5.92 gross) acres of property located at 2030 Winchester Road (a portion of), subject to certain use restrictions imposed as a condition of granting the zone change. (Preston W. Madden & Akbar, LLC)

An Ordinance changing the zone from a Two Family Residential (R-2) zone to a High Density Apartment (R-4) zone for 0.54 net (0.60 gross) acre of property, from a Neighborhood Business (B-1) zone to a Mixed Use: Neighborhood Corridor (MU-2) zone for 0.94 net (1.10 gross) acre of property, and from a Neighborhood Business (B-1) zone to a High Density Apartment (R-4) zone for 0.11 net (0.11 gross) acre of property located at 261 and 267 South Limestone Street and 372, 376 and 380 South Upper Street, subject to certain use and density restrictions imposed as a condition of granting the zone change. (JTM Holdings, LLC (AMD))

An Ordinance amending Section 23A-9(k)(3) of the Zoning Ordinance so as to increase the allowable size of buildings in the Community Center (CC) zone from 10,000 to 15,000 square feet in floor area.

An Ordinance amending Section 21-5 of the Code of Ordinances abolishing one (1) position of Administrative Specialist, Grade 110N, and creating one (1) position of

Administrative Specialist Principal, Grade 114E and reclassifying the incumbent in the Div. of Human Resources, to be effective retroactive to January 19, 2005, and appropriating funds pursuant to Schedule No. 167.

An Ordinance amending Section 21-5 of the Code of Ordinances abolishing one (1) position of Public Service Worker, Grade 106N, and creating one (1) position of Vehicle and Equipment Mechanic – Apprentice, Grade 107N, and reclassifying the incumbent, in the Div. of Fleet Services, to become effective retroactive to February 16, 2005, and appropriating funds pursuant to Schedule No. 169.

An Ordinance authorizing the Mayor to execute and submit a Grant Application to the Ky. Dept. of Education, Div. of School and Community Nutrition, to provide any additional information requested in connection with this grant application, and to accept this grant if the application is approved, which grant funds are in the amount of \$140,540 Federal funds, are for the 2005 Summer Food Service Program, the acceptance of which does not obligate the Urban County Government for the expenditure of funds, appropriating funds pursuant to Schedule No. 170, and authorizing the Mayor to transfer unencumbered funds within the grant budget.

An Ordinance authorizing the Mayor to execute Supplemental Agreement No. 1 with the Ky. Transportation Cabinet, for the acceptance of an additional \$174,400 in Federal funds for the construction phase of the Alumni Drive Turn Lane Construction Project, the acceptance of which obligates the Urban County Government for the expenditure of \$43,600, and appropriating funds pursuant to Schedule No. 168.

An Ordinance amending Section 21-5 of the Code of Ordinances abolishing one (1) position of Administrative Specialist, Grade 110N, and creating one (1) position of Staff Assistant Sr., Grade 108N, in the Div. of Sanitary Sewers, and appropriating funds pursuant to Schedule No. 172.

An Ordinance amending Section 21-5 of the Code of Ordinances reallocating one (1) position of Security Supervisor from Grade 110N to Grade 112N, in the Dept. of General Services, to be effective retroactive to February 16, 2005, and appropriating funds pursuant to Schedule No. 174.

An Ordinance amending Section 21-5 of the Code of Ordinances abolishing seven (7) positions of Videographer, Grade 111N, and creating seven (7) positions of Producer, Grade 113N, and reclassifying the incumbents, in the Div. of Government Communications, to be effective retroactive to January 5, 2005, and appropriating funds

pursuant to Schedule No. 176.

An Ordinance amending Section 21-5 of the Code of Ordinances abolishing one (1) position of Clerical Assistant, Grade 104N, in the Div. of Parks and creating one (1) position of Clerical Assistant, Grade 104N, in the Dept. of General Services, transferring the incumbent, and appropriating funds pursuant to Schedule No. 178.

An Ordinance amending Section 22-5 of the Code of Ordinances abolishing one (1) position of Staff Assistant, Grade 107N, and creating one (1) position of Staff Assistant Sr., Grade 108N in the Div. of Family Services, and appropriating funds pursuant to Schedule No. 173.

An Ordinance amending Section 22-5 of the Code of Ordinances creating one (1) position of Eligibility Counselor, Grade 110E, in the Div. of Family Services.

An Ordinance authorizing the Mayor to accept a Grant from the Ky. Board of Emergency Medical Services, which grant funds are in the amount of \$11,500.00 Commonwealth of Ky. funds, are for the purchase of five (5) stair chairs for moving individuals up and down staircases, the acceptance of which does not obligate the Urban County Government for the expenditure of funds, appropriating funds pursuant to Schedule No. 171, and authorizing the Mayor to transfer unencumbered funds within the grant budget.

An Ordinance authorizing the Mayor to accept a Grant from the Commonwealth of Ky. State Police Highway Safety Program, which grant funds are in the amount of \$10,000 Federal funds, are for a two week enforcement blitz for the Memorial Day "Buckle Up Kentucky" mobilization period from May 23 through June 5, 2005, the acceptance of which does not obligate the Urban County Government for the expenditure of funds, appropriating funds pursuant to Schedule No. 177, and authorizing the Mayor to transfer unencumbered funds within the grant budget.

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An Ordinance authorizing the Mayor to execute and submit the 2005 Consolidation Plan/Grant Application to the U. S. Dept. of Housing and Urban Development, to provide any additional information requested in connection with this grant application, and to accept the grant if the application is approved, which grant funds are in the amount of \$4,007,005 Federal funds, are for FY06 Community Development Block Grant Program (\$2,374,796), HOME Program (\$1,470,431), Emergency Shelter Grant Program (\$91,620) and the American Dream Down Payment

Initiative (\$70,158), the acceptance of which obligates the Urban County Government for the expenditure of \$345,890 from various funding sources as local cash match and \$81,620 in-kind match; appropriating funds pursuant to FY06 Schedule No. 3; authorizing the Mayor to transfer unencumbered funds within the grant budget; and authorizing the Mayor to execute agreements for the approved plan was given second reading and passed by the following vote:

Aye: Myers, Scanlon, Shafer, Stevens, Stinnett, Wigginton, Brown, Cegelka,
DeCamp, Ellinger, Farmer, Gorton, Lane, McChord ----- 14

Nay: ----- 0
(Mr. Moloney disqualified himself when the vote was taken.)

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An Ordinance amending Section 4-9(a) of the Code of Ordinances to require police officers to aid humane society officers by arresting persons criminally charged with mistreatment or torture of animals; amending Sections 4-9(c), 4-12.4(e), 4-12.5(e), 4-21(a) and (b), and 4-22(a) and (b) of the Code to change all references to the Lexington Humane Society and the dog warden to the animal control officer; repealing Subsection (b) of Section 4-11.1 of the Code; amending Sections 4-12.3(a) and (d), 4-12.4(b), (c), (d) and (g), 4-12.5(e), 4-22(a), 4-29(1) and (2), and 4-33(2) of the Code to change all references to the Lexington Humane Society and its executive director to the designated licensing facility; amending Sections 4-12.4(b) and (e), 4-14(f), 4-21(a) and (c), and 4-22(a) of the Code to change all references to the Lexington Humane Society and the dog pound to the animal shelter; amending Sections 4-12.3(d) and 4-21(c) of the Code to allow dog owners to reclaim their dogs by purchasing a vaccination voucher in lieu of showing proof of rabies vaccination; creating Subsection (f) of Section 4-12.3 to establish a vaccination voucher fee of \$5.00; amending Subsections (a), (c), and (d) through (h) of Section 4-12.3 of the Code to require rabies vaccinations for all dogs and cats four (4) months of age or older; to define and exempt assistance dogs from the local dog license requirement; to establish an annual license fee of \$8.00 for an altered dog or cat and \$40.00 for an unaltered dog or cat, authorizing the designated license facility to retain \$6.00 of the \$8.00 fee and \$10.00 of the \$40.00 fee, allocating \$25.00 of the \$40.00 fee to the "Spay and Neuter Fund," requiring the owner or custodian to provide proof of alteration, and providing an exception to the higher license fee if spaying or neutering would be harmful to the animal; amending Sections 4-12.5(b) and 4-16(a) of the Code to delete all references to the state dog license, to refer to the local

license tag in lieu of the state dog license, and to make the local license effective for a twelve month period; amending Section 4-14(b), (c) and (g) of the Code to require a vicious dog enclosure to be at least seven feet high with a secure top, to restrict the purposes for which vicious dogs may leave the enclosure to those authorized by KRS 258.235, and to reduce the quarantine period for a vicious dog to ten days; amending Section 4-19(a) of the Code to exclude hounds and hunting dogs while hunting from the prohibition against dogs running at large; amending Subsection (c) of Section 4-21 of the Code to establish a boarding fee of \$7.50 per day, including the first and last day of impoundment; creating Subsection (d) of Section 4-21 of the Code to establish an impound fee of \$25.00 for altered dogs and cats and \$50.00 for unaltered dogs and cats for a first offense during any twelve (12) month period, doubling the impound fee for a second and each subsequent offense during any twelve (12) month period, allocating \$25.00 of the impound fee to the General Fund and the balance to the "Spay and Neuter Fund," and to provide the owner of an unaltered dog or cat with the option of purchasing spay or neuter services from the Lexington Humane Society for a fee of \$50.00 in lieu of paying the impound fee; creating Section 4-21.1 of the Code to establish a Spay and Neuter Grant Program; creating Section 4-21.2 of the Code to establish eligibility criteria for the Spay and Neuter Grant Program; amending Section 4-23 of the Code to include Coldstream Park as a park within which the director of the Div. of Parks may designate a dog run area; and, repealing Subsection (f)(3) of Section 14-10 of the Code; all effective on the date of passage was on the docket for second reading.

Mr. Myers made a motion, seconded by Mr. Brown, to reduce the \$40 fee to \$25.

Ms. Gorton asked Mr. Burt Hawkins, Lexington Humane Society, to speak about the fees.

The motion failed to pass.

The ordinance was given second reading and passed by the following vote:

Aye:	Scanlon, Shafer, Stevens, Stinnett, Wigginton, Cegelka, DeCamp, Ellinger, Farmer, Gorton, Lane, McChord, Moloney -----	13
Nay:	Myers, Brown -----	2

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An Ordinance amending certain of the budgets of the Lexington-Fayette Urban County Government to reflect current requirements for municipal expenditures, and appropriating and reappropriating funds, Schedule No. 166 was given second reading

and passed by the following vote:

Aye: Myers, Scanlon, Shafer, Stevens, Stinnett, Wigginton, Cegelka,
DeCamp, Ellinger, Farmer, Gorton, Lane, McChord, Moloney ----- 14

Nay: Brown ----- 1

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The following ordinances were given first reading and ordered placed on file for two weeks for public inspection.

An Ordinance changing the zone from an Agricultural Urban (A-U) zone to a Single Family Residential (R-1E) zone for 2.74 net (2.86 gross) acres, from an Agricultural Urban (A-U) zone to a Planned Neighborhood Residential (R-3) zone for 10.43 net (10.43 gross) acres, from an Agricultural Urban (A-U) zone to a Highway Service Business (B-3) zone for 1.28 net (1.32 gross) acres, from a Single Family Residential (R-1E) zone to a Highway Service Business (B-3) zone for 2.85 net (2.95 gross) acres, from a Single Family Residential (R-1E) zone to a Planned Neighborhood Residential (R-3) zone for 0.21 net (0.33 gross) acre, and from a Highway Service Business (B-3) zone with conditional zoning restrictions to a Highway Service Business (B-3) zone with modified conditional zoning restrictions for 0.38 net (0.41 gross) acre of property located at 2679 Leestown Road and a portion of 2601 Leestown Road, subject to certain use restrictions imposed as a condition of granting the zone change. (Robert P. Langley & Whitesburg Redevelopment Co., Ltd. (AMD))

An Ordinance changing the zone from an Agricultural Urban (A-U) zone to a Planned Shopping Center (B-6P) zone for 13.90 net (15.19 gross) acres and from a Professional Office (P-1) zone to a Planned Shopping Center (B-6P) zone for 9.88 net (9.88 gross) acres of property located at 150 Rojay Drive. (CBL & Associates)

An Ordinance changing the zone from an Agricultural Urban (A-U) zone to a Single Family Residential (R-1C) zone for 8.64 net (9.59 gross) acres of property located at 5301 Tates Creek Road, subject to certain density and buffering restrictions imposed as conditions of granting the zone change. (The Reserve at Tates Creek, LLC)

An Ordinance amending certain of the budgets of the Lexington-Fayette Urban County Government to reflect current requirements for municipal expenditures, and appropriating and re-appropriating funds, Schedule No. 180.

An Ordinance amending certain of the budgets of the Lexington-Fayette Urban County Government to reflect current requirements for municipal expenditures related to the Phoenix Building and Government Center renovations, and appropriating and

reappropriating funds, Schedule No. 181.

An Ordinance amending Ordinance No. 30-2005, that amended Chapter 17B of the Code of Ordinances, to correct a clerical error which omitted an amendment to Section 17B-7 to clarify that the rights of way are those of the Urban County Government.

An Ordinance amending Section 14-10(f)(9) of the Code of Ordinances to add Environmentalist I employed by the Lexington-Fayette Urban County Government Health Department as a position title for the enforcement of Code of Ordinances Section 14-97 through 14-104.

An Ordinance authorizing the Mayor to execute and submit a Grant Application to the Kentucky State Police, to provide any additional information requested in connection with this grant application, and to accept this grant if the application is approved, which grant funds are in the amount of \$32,750.00 Federal funds, are for continuation of the Traffic Safety Program in FY 2006, the acceptance of which obligates the Urban County Government for the expenditure of \$32,750.00, subject to sufficient funds being appropriated in FY 2006, appropriating funds pursuant to FY 2006 Schedule No. 4, and authorizing the Mayor to transfer unencumbered funds within the grant budget.

An Ordinance amending Section 21-5 of the Code of Ordinances abolishing one position of Social Services Administrator, Grade 119E, in the Dept. of Social Services.

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An Ordinance changing the zone from a Single Family Residential (R-1B) zone to a Planned Neighborhood Residential (R-3) zone for 8.36 net (11.21 gross) acres of property located at 1958 and 1980 Edgeworth Drive, subject to a certain density restriction imposed as a condition of granting the zone change (Dennis R. Anderson) was given first reading and ordered placed on file until a Public Hearing to be held on June 9, 2005 at 8:00 p.m.

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Upon motion of Mr. Ellinger, seconded by Mr. DeCamp and passed by unanimous vote, an Ordinance amending certain of the budgets of the Lexington-Fayette Urban County Government to reflect current requirements for funds to replace a nitrous oxide/oxygen dental storage tank for the Family Care Center Dental Clinic, and appropriating and re-appropriating funds, Schedule No. 185 was placed on the docket and given first reading.

Mr. Scanlon asked Ms. Alayne White, Commissioner of Social Services, about

the cost.

The ordinance was ordered placed on file two weeks for public inspection.

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The following resolutions were given second reading and passed by the following vote:

Aye: Myers, Scanlon, Shafer, Stevens, Stinnett, Wigginton, Brown, Cegelka, DeCamp, Ellinger, Farmer, Gorton, Lane, McChord, Moloney ----- 15

Nay: ----- 0

A Resolution accepting the bid of London Impressions establishing a price contract for printing of Fun Guide for 2005 Supplement.

A Resolution accepting the bid of Evercom establishing a price contract for inmate telephone service.

A Resolution accepting the bid of Central Business Systems, Inc. and further authorizing the Mayor to execute a Lease Agreement and a Maintenance Agreement for a mail system, for the Dept. of General Services, at a cost not to exceed \$8,659.08 per year for four (4) years, subject to sufficient funds being budgeted in subsequent fiscal years.

A Resolution pursuant to KRS 381.755 and 901 KAR 5:090 authorizing the removal and relocation of graves in an abandoned cemetery located upon property at 1936 and 1990 Bryant Road owned by Josephine Sexton Cope.

A Resolution authorizing the Dept. of Law to accept a Deed conveying a permanent bikeway, shared use trail and access easement and a temporary construction easement from Davina G. Dodge and Brian R. Dodge, located at 3236 Brighton Place Drive, for Phase I of the Brighton East Rail Trail Project, and authorizing payment in the amount of \$3,750.00, plus usual and appropriate closing costs.

A Resolution authorizing the Mayor to execute the Certificate of Consideration and to accept a General Warranty Deed, from Carol T. Smith, for the property located at 209 St. Ann Drive for the Idle Hour Storm Drainage Project, at a cost not to exceed \$117,000 for the property and \$1,700 for relocation expenses.

A Resolution authorizing the Dept. of Law to institute condemnation proceedings in Fayette Circuit Court to obtain a temporary construction easement and permanent right of way at 663 East Loudon Avenue for the Loudon Avenue Improvement Project.

A Resolution authorizing the Mayor to execute Agreements with Waverunners, Inc. (\$100.00), The Urban League of Lexington, Fayette County, Inc. (\$925.00), The

Lexington History Museum, Inc. (\$675.00), and Lexington Shakespeare Festival, Inc. (\$750.00) for the Office of the Urban County Council, at a cost not to exceed the sums stated.

A Resolution authorizing the Mayor to execute an Agreement with Lexington Habitat for Humanity, for material costs and specialized skills associated with the construction of one house to be sold to a low-income family, at a cost not to exceed \$37,500 in Local Government Economic Assistance Funds.

A Resolution authorizing the Mayor to execute an Agreement with Hope Center, Inc., for operational support of the HopeMobile Program for homeless persons, at a cost not to exceed \$20,000 in Local Government Economic Assistance Funds.

A Resolution authorizing the Mayor to execute a Lease Agreement with LexCare, for space at the Black and Williams Neighborhood Center.

A Resolution authorizing the Mayor to execute Change Order No. 1 to the contract with Tetra Tech, Inc., for design of the Richmond Road Multi-Use Path Project, increasing the contract price by the sum of \$6,380 from \$28,000 to \$34,380.

A Resolution authorizing the Mayor to execute Change Order No. 2 to the contract with Nesbitt Engineering, Inc. for Edgelawn Collector System Bond Project, increasing the contract price by the sum of \$3,190.78 from \$169,668.00 to \$172,858.78.

A Resolution approving the probationary civil service appointments of: Marwan Rayan, Urban County Engineer, Grade 123E, \$3,846.16 bi-weekly, in the Div. of Engineering, effective April 4, 2005; Billy Works, Equipment Operator Sr., Grade 109N, \$11.283 hourly, in the Div. of Solid Waste, effective April 18, 2005; Dawn Angarone, Administrative Specialist, Grade 110N, \$17.293 hourly, in the Div. of Risk Management, effective April 18, 2005; Robert W. Belt, Public Service Supervisor, Grade 111N, \$18.571 hourly, in the Div. of Parks, effective March 28, 2005; Karen Simpson, Administrative Specialist Principal, Grade 114E, \$1,642.24 bi-weekly, in the Div. of Community Development, effective April 3, 2005; Crystal Mundy, Staff Assistant, Grade 107N, \$11.681 hourly, in the Div. of Central Purchasing, effective April 18, 2005; James L. Holman, Skilled Trades Worker Sr., Grade 112N, \$20.664 hourly, in the Div. of Parks, effective April 4, 2005; Phillip Burbage, Human Resources Analyst, Grade 115E, \$1,628.32 bi-weekly, in the Div. of Human Resources, effective April 18, 2005; Hillard Newman Jr., Engineering Section Manager, Grade 120E, \$2,534.72 bi-weekly, in the Div. of Engineering, effective March 21, 2005; Rodney Waugh, Equipment Operator Sr.,

Grade 109N, \$13.647 hourly, in the Div. of Streets, Roads and Forestry, effective April 18, 2005; Nicole Rodriguez, Human Resources Analyst, Grade 115E, \$1,423.20 bi-weekly, in the Div. of Human Resources, effective April 18, 2005; Michael Clayborne, Engineering Technician Sr., Grade 113E, \$1,367.20 bi-weekly, in the Div. of Engineering, effective March 21, 2005; Lois Poole, Staff Assistant, Grade 107N, \$11.206 hourly, in the Div. of Human Resources, effective April 18, 2005; Arecannon Jones, Equipment Operator Sr., Grade 109N, \$14.292 hourly, in the Div. of Solid Waste, effective May 2, 2005; Kevin Bolton, Equipment Operator Sr., Grade 109N, \$11.713 hourly, in the Div. of Solid Waste, effective May 2, 2005; Arnold Sidney, Custodial Worker, Grade 102N, \$9.908 hourly, in the Div. of Building Maintenance and Construction, effective May 2, 2005; Joyce Acres, Administrative Specialist, Grade 110N, \$17.228 hourly, in the Div. of Revenue, effective April 18, 2005; Brian Gross, Equipment Operator Sr., Grade 109N, \$11.391 hourly, in the Div. of Solid Waste, effective May 2, 2005; ratifying the permanent civil service appointments of: Paula Williams, Human Resources Analyst, Grade 115E, in the Div. of Human Resources, effective March 20, 2005; Robert T. Phelps, Code Enforcement Officer, Grade 113N, in the Div. of Building Inspection, effective April 11, 2005; Jeffery T. Hanes, Public Service Supervisor, Grade 111N, in the Div. of Parks, effective February 23, 2005; Ernest Keene, Engineering Technician Sr., Grade 113E, in the Div. of Sanitary Sewers, effective March 20, 2005; Tracy Richardson, Human Resources Representative, Grade 117E, in the Div. of Human Resources, effective April 1, 2005; Jason Allinder, Associate Traffic Engineer, Grade 115E, in the Div. of Traffic Engineering, effective April 18, 2005; approving the probationary sworn appointments of: Clayton Roberts, Police Sergeant, Grade 315N, \$1,734.00 bi-weekly, in the Div. of Police, effective March 14, 2005; approving leave of absence for: Linda Craft, Custodial Worker, Grade 102N, in the Div. of Building Maintenance and Construction, requests a 90 day leave of absence without pay (intermittently) effective April 1, 2005; Patrick Wright, Equipment Operator Sr., Grade 109N, in the Div. of Solid Waste, requests a 90 day leave of absence, effective March 24, 2005; ratifying the unclassified civil service appointment of: Robert Briscoe, Client Assessment Counselor, Grade 112E, \$1,044.64 bi-weekly, in the Mayor's Training Center, effective April 18, 2005; approving the voluntary demotions of: Rhonda Sears, Communications Shift Manager, Grade 116E, \$1,632.16 bi-weekly, to Communications Officer Sr., Grade 113N, \$14.708 hourly, in the Div. of Police, effective

April 18, 2005; Latricia Jones, Communications Officer Sr., Grade 113N, \$16.196 hourly, to Communications Officer, Grade 111N, \$13.376 hourly, in the Div. of Police, effective April 18, 2005; Peter Skye, Communications Officer Sr., Grade 113N, \$16.195 hourly to Communications Officer, Grade 111N, \$13.920 hourly, in the Div. of Police, effective April 5, 2005; Stanley Anderson, Community Corrections Sergeant, Grade 112N, \$19.048 hourly, to Community Corrections Officer, Grade 110N, \$18.476 hourly, in the Div. of Community Corrections, effective April 4, 2005; amending Resolution No. 146-2005 approving the probationary sworn appointments of: Richard Jordan, Joseph Kinney, Battalion Chief, Grade 319E, \$3,136.24 bi-weekly, in the Div. of Fire, effective January 24, 2005.

A Resolution changing the property address numbers of 319-329 Twin Spires Trail to 321-331 Twin Spires Trail, and of 3507-3523 Lochdale Terrace to 3509-3525 Lochdale Terrace.

A Resolution authorizing the Mayor to execute and submit a Grant Application to the Ky. Justice and Public Safety Cabinet and to provide any additional information requested in connection with this grant application, which grant funds are in the amount of \$96,517.00 Federal funds, and are for continuation of the Street Sales Drug Enforcement Project for FY 2006.

A Resolution authorizing the Mayor to execute and submit a Grant Application to the Ky. Justice and Public Safety Cabinet's Law Enforcement Service Fee Program and to provide any additional information requested in connection with this grant application, which grant funds are in the amount of \$82,000.00 in FY 2006 Commonwealth of Ky. funds, and are for overtime costs of approximately 4,500 police officer hours for a Traffic Alcohol Patrol.

A Resolution authorizing the Mayor to execute and submit a Grant Application to the U. S. Dept. of Justice Office of Justice Programs, Bureau of Justice Assistance and to provide any additional information requested in connection with this grant application, which grant funds are in the estimated amount of \$54,531.00 Federal funds, and are for reimbursement, under the 2005 State Criminal Alien Assistance Program (SCAAP), of costs associated with incarcerated undocumented criminal aliens.

A Resolution authorizing the Dept. of Law to accept a Deed of Permanent right-of-way and temporary construction easement from JRN, Inc., 1015 Winchester Road; and authorizing the Mayor to execute any other necessary and proper documents to

complete the acquisition, for the Loudon Avenue Improvements Project, at a cost not to exceed \$20,000.

A Resolution authorizing the Mayor to accept the proposal of Vermont Systems, for computer software for the Div. of Parks, at a cost not to exceed \$98,000.00.

A Resolution authorizing the Mayor to execute an Agreement with the Board of Education of Fayette County, Ky., for preparation and delivery of meals for the 2005 Summer Food Service Program, at a cost not to exceed \$2.08 for each lunch, \$1.25 for each breakfast, and \$0.58 for each snack.

A Resolution authorizing the Mayor to execute an Agreement with the Valley View Ferry Authority, for operational support of the Valley View Ferry, at a cost not to exceed \$20,000 in Local Government Economic Assistance Funds.

A Resolution authorizing the Mayor to execute a Professional Services Agreement with Carrie Lynn Dunaway, as a Certified Sexual Assault Nurse Examiner, to provide on-call forensic examinations under the Sexual Assault Nurse Examiner Program, at a cost not to exceed \$20.00 for each scheduled on-call period, \$220.00 for each completed forensic examination and the reasonable cost of medical liability insurance.

A Resolution authorizing the Mayor to execute two three-year Maintenance Agreements with A. B. Dick Products of Lexington, Inc., for maintenance of a Konica 7155 copier and a Duplo Duplicator, at a cost not to exceed \$5,520.00, and \$.006 per copy over 240,000 copies on the Konica 7155 copier and \$.0013 per copy over 200,000 copies on the Duplo Duplicator.

A Resolution authorizing the Mayor to execute Concession Contracts with Northern Cal Ripken for Kenawood Park/Constitution Park, Northern Babe Ruth for Constitution Park, Southwest Lexington Pony Baseball, Inc. for Cardinal Run Park and Airport Field, Kirklevington Senior Baseball for Kirklevington Park, South Lexington Babe Ruth for Shillito Park, South Lexington youth Baseball for Shillito Park, Southeastern Cal Ripken for Veterans Park and River Hill Park, Southeastern Babe Ruth for Veterans Park, Gardenside Little League for Cardinal Run and Wolf Run Park, Dixie Youth Baseball for Mary Todd Park, Bluegrass Girls Fast Pitch for Gainesway Park/Cardinal Run Field 8 and Eastern Little League for Ecton Park, to provide concessions at Government owned ballfields for the benefit of the youth in the

community, at no cost to the Urban County Government.

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A Resolution expressing the Lexington-Fayette Urban County Government's concern about ongoing discussions and plans to either eliminate or cut funding to the Community Development Block Grant (CDBG) Program and to remove the program from the supervision of the Dept. of Housing and Urban Development (HUD); expressing support for and the importance of the CDBG Program; and requesting that the President and Congress of the United States of America leave the CDBG Program under the auspices of HUD and fund the program at no less than the current level of \$4.7 billion was given second reading.

Mr. Brown asked the Mayor about the wording of the resolution.

The resolution was passed by the following vote:

Aye: Myers, Scanlon, Shafer, Stevens, Stinnett, Wigginton, Brown, Cegelka,
DeCamp, Ellinger, Farmer, Gorton, Lane, McChord, Moloney ----- 15

Nay: ----- 0

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A Resolution authorizing the Mayor to execute Change Orders to the Contract with LAGCO, Inc. for Phase 3 of the Government Center HVAC renovation increasing or decreasing the contract amount provided: budgeted funds are available to cover the change order increases; no change order has the effect of materially changing the scope of the project or contract; the cumulative total increase for all change orders so executed does not exceed \$100,000 (4% of the contract amount); no individual change order increase exceeds \$30,000 (1% of the contract amount); a summary of all change orders so executed will be furnished to the Urban County Council quarterly, unless more frequent reporting is requested; and no change orders shall be submitted for execution until they have been reviewed and recommended by the consulting engineer and their sub-consultants, the Div. of Central Purchasing and the director of the Div. of Building Maintenance and Construction was given second reading and passed by the following vote:

Aye: Myers, Scanlon, Shafer, Stevens, Stinnett, Wigginton, Brown,
DeCamp, Ellinger, Farmer, Gorton, Lane, McChord, Moloney ----- 14

Nay: Cegelka ----- 1

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The following resolutions were given first reading. Upon motion of Mr. McChord and seconded by Mr. Moloney, the rules were suspended by unanimous vote. The resolutions were given second reading and passed by the following vote:

Aye: Myers, Scanlon, Shafer, Stevens, Stinnett, Wigginton, Brown, Cegelka, DeCamp, Ellinger, Farmer, Gorton, Lane, McChord, Moloney ----- 15

Nay: ----- 0

A Resolution accepting the bid of C. W. Nielsen Mfg. Corp. establishing a price contract for police badges, for the Div. of Police.

A Resolution the Urban County Council of the Lexington-Fayette Urban County Government making a Declaration of Official Intent with respect to reimbursement from subsequent borrowings of temporary advances made for capital expenditures for renovation of Urban County Government facilities, in the aggregate amount of \$610,000.00.

A Resolution accepting the bid of Spectrum Contracting Services, Inc., in the amount of \$297,590.00, for renovation of the fourth floor of the Phoenix Building.

A Resolution authorizing the Dept. of Law to enter into a Settlement Agreement and/or Agreed Order of Settlement in Fayette Circuit Court, Civil Action Numbers 03CI-3288 and 03CI-5074, and to execute and record any necessary documents pertaining to the satisfaction of the judgments in those cases.

A Resolution authorizing the Mayor to execute an Engineering Services Agreement with Tetra Tech, Inc., for Southland Drive Drainage Study, at a cost not to exceed \$30,000.00.

A Resolution authorizing the Mayor to execute and submit a Grant Application to the Kentucky Division of Forestry and to provide any additional information requested in connection with this grant application, which grant funds are in the amount of \$40,000.00 Federal funds, and are for the FY 2006 Urban Forestry Project.

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The following resolutions were given first reading and ordered placed on file two weeks for public inspection.

A Resolution accepting the bid of Bus Service, Inc. in the amount of \$43,998.00, for bus bodies for the Div. of Fleet Services.

A Resolution accepting the bid of Pepsi Cola Bottling Co. of Lexington establishing a price contract for beverage products, for the Div. of Parks.

A Resolution accepting the bid of MPH Industries, Inc. establishing a price contract for non-permanent mounted radar, for the Div. of Police.

A Resolution accepting the bid of Harley-Davidson of Lexington establishing a price contract for police motorcycles, for the Div. of Police.

A Resolution accepting the bid of Central Indiana Truck Equipment Corp. establishing a price contract for multipack refuse bodies, for the Div. of Fleet Services.

A Resolution approving the probationary civil service appointment of: Dal Barrett, Internal Auditor, Grade 118E, \$1,923.08 bi-weekly, in the Div. of Internal Audit, effective May 2, 2005; ratifying the permanent civil service appointments of: James D. Cowan, John Dudley, Aaron Garrard and James S. Lee, Equipment Operator Sr., Grade 109N, in the Div. of Solid Waste, effective April 4, 2005; ratifying the unclassified civil service appointment of: Jay Whitehead, Commissioner of Public Works, Grade 211E, \$3,500.00 bi-weekly, in the Dept. of Public Works, effective April 18, 2005.

A Resolution authorizing the Mayor to execute an Agreement with Red Cross Wheels, for the use of Local Government Economic Assistance Funds for the purchase of five (5) minibuses for transporting the elderly and disabled, at a cost not to exceed \$25,000.00.

A Resolution authorizing the Mayor to execute an Amendment to Lease Agreement with Creech Services, Inc., for use of the Haley Pike Landfill, to include an additional 5.743 acres of borrow area to use as a water retention basin, to extend the renewal options and to address issues relating to water and testing at an additional annual rental of \$600.00.

A Resolution authorizing the Mayor to execute a Maintenance Agreement for a term effective November 15, 2004 through November 14, 2005 with Medtronic Physio-Control Corp., for technical service support of Lifepac 12 defibrillators, at a cost not to exceed \$10,236.00.

A Resolution authorizing the Mayor to execute an Engagement Letter with Mountjoy & Bressler, LLP, for audit of the financial statements for the year ended June 30, 2005, at a cost not to exceed \$91,600.00.

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A Resolution authorizing the Mayor to execute a Mutual Aid Agreement with American Medical Response, relating to the operation of an ambulance service, at no cost to the Urban County Government was on the docket for first reading.

Mr. Bruce Simpson, attorney for Rural/Metro Ambulance Service, requested that the Council postpone any action on the resolution tonight because the issue of whether to have an additional ambulance service in Fayette County would be heard by the state at a hearing scheduled for next week.

Dr. Stevens made a motion, seconded by Ms. Gorton, to remove the resolution from the docket until the hearing by the state was held and findings on the issue were made.

Mr. David Vance, attorney for American Medical Response, spoke against removing the resolution from the docket.

The motion passed by majority vote (Mr. Cegelka voted no).

The resolution was removed from the docket until a later date after the hearing was held by the state and findings on the issue were made.

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Mr. Cegelka made a motion, seconded by Mr. Wigginton, to place on the docket and give first reading to a Resolution authorizing upon the effectiveness of Resolution No. 29-2005: (1) the Mayor to execute a Settlement Agreement and Release on behalf of the Lexington-Fayette Urban County Government relating to all pending proceedings in the Fayette Circuit Court to acquire by eminent domain all of the real and personal property of Ky.-American Water Company; and (2) authorizing the Dept. of Law or the law firm of Frost Brown Todd, upon execution by all other parties to the Settlement Agreement and Release and Stipulation and Agreed Order of Dismissal to execute and tender to the court for entry a Stipulation and Agreed Order of Dismissal relating to all pending proceedings in the Fayette Circuit Court to acquire by eminent domain all of the real and personal property of Ky.-American Water Company.

Mr. Cegelka explained the resolution and thanked the members of the Council's special committee, as well as the attorneys who have been involved, for their work on it.

Ms. Fernita Wallace, 795 Lakeshore Drive, Co-Chair of the Let Us Vote Campaign, introduced Co-Chair Gloria Singletary and asked the other members present to stand. Ms. Wallace stated that over 18,000 signatures had been turned in for the campaign with more coming in, and that since it appeared there would be a referendum on the ballot for the issue she asked the Council to delay making any settlement with the water company until after the ballot vote.

Mr. Cegelka's motion passed by majority vote.

The resolution was given first reading.

Mr. Scanlon made a motion, seconded by Mr. Farmer to suspend the rules and given the resolution second reading.

Ms. Barbara Sledd, Dept. of Law, stated that the rules could not be suspended for the resolution.

The motion failed to pass.

Mr. Farmer made a motion, seconded by Mr. Myers and passed by majority vote, to have a Special Meeting on Tuesday, April 26, 2005 at 1:30 p.m. for second reading of the resolution.

The resolution was ordered placed on file for public inspection until a Special Meeting to be held on April 26, 2005 at 1:30 p.m.

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Mr. Cegelka made a motion, seconded by Mr. Wigginton, to place on the docket and give first reading to a Resolution authorizing the Mayor to execute an Amendment of Lease amending a Lease dated March 28, 1968 of record in Deed Book 946, Page 82, in the Fayette County Clerk's Office, pertaining to 386.272 acres of real property on Richmond Road consisting of Jacobson Park and Lakeside Golf Course, to take all actions required by the Amendment to Lease, and attaching that Amendment to Lease and incorporating its terms by reference.

Mr. Cegelka explained the resolution and thanked the members of the Council's special committee, as well as the attorneys who have been involved, for their work on it.

The motion passed by majority vote.

The resolution was given first reading.

Ms. Gorton asked Mr. Cegelka, Mr. Bill Lear, Stoll, Keenon and Park, attorney for the water company, and Ms. Amy Cubbage, Frost, Brown and Todd, attorney for the water company, about the language of the resolution, the renewal of the lease for Jacobson Park, the valuation and fair market value of the properties, and the expected success of the petition drive for the issue to go on the ballot.

Mr. Cegelka called Mr. Guy Hughes and Mr. Ike Fleming, Woodward, Hobson and Fulton, attorneys who were retained by the Council's Document Oversight Committee, to speak on the valuation of the property. Mr. Hughes and Mr. Fleming recommended that discussion of the valuation of the properties be done in closed session.

Dr. Stevens made a motion, seconded by Ms. Gorton and passed by majority vote, to go into Closed Session at 8:13 p.m. to discuss a litigation issue.

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Upon motion of Mr. Farmer, seconded by Mr. Cegelka and passed by unanimous vote, the Council came back into Open Session at 9:02 p.m. with the same members present.

Ms. Gorton asked Dr. Stevens whether the committee had asked the water company during the negotiations for a permanent conservation easement at Jacobson Park

Dr. Stevens stated that having a permanent conservation easement had been discussed, but that the water company had not agreed to it.

Mr. Scanlon made a motion, seconded by Mr. Farmer, to suspend the rules and give the resolution second reading.

Ms. Barbara Sledd, Dept. of Law, stated that the rules could not be suspended for the resolution.

The motion failed to pass.

Mr. Farmer made a motion, seconded by Mr. Myers and passed by majority vote, to have a Special Meeting on Tuesday, April 26, 2005 at 1:30 p.m. for second reading of the resolution.

The resolution was ordered placed on file for public inspection until a Special Meeting to be held on April 26, 2005 at 1:30 p.m.

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Mr. Cegelka made a motion, seconded by Mr. Wigginton, to place on the docket and give first reading to a Resolution accepting certain commitments made by Ky.-American Water Company for the benefit of the residents of Lexington-Fayette Urban County, which commitments are memorialized in three letters attached thereto.

Mr. Cegelka explained the resolution, and thanked the members of the Council's special committee, as well as the attorneys who have been involved, for their work on it.

The motion passed by majority vote.

The resolution was given first reading.

The Council asked Ms. Amy Cubbage, Frost, Brown and Todd, attorney for the water company, and Mr. Guy Hughes, Woodward, Hobson & Fulton, attorney retained by the Council's Document Oversight Committee, about the letters from KY-American Water Co. that were attached to the resolution and whether they were legally binding.

Mr. Robert Dalton, 520 Douglas Avenue, asked the Council to delay making a decision on this issue.

Mr. Foster Ockerman, Jr., attorney for Bluegrass FLOW, spoke on whether there was any legally binding effect in the letters from KY-American Water Co.

Mr. Scanlon made a motion, seconded by Mr. Farmer to suspend the rules and given the resolution second reading.

Ms. Barbara Sledd, Dept. of Law, stated that the rules could not be suspended for the resolution.

The motion failed to pass.

Mr. Farmer made a motion, seconded by Mr. Myers and passed by majority vote, to have a Special Meeting on Tuesday, April 26, 2005 at 1:30 p.m. for second reading of the resolution.

The resolution was ordered placed on file for public inspection until a Special Meeting to be held on April 26, 2005 at 1:30 p.m.

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Upon motion of Mr. DeCamp, seconded by Mr. Farmer and passed by unanimous vote, the communications from the Mayor were approved and are as follows: (1) recommending the appointment of Tugce Menguc to the Community Partnership Action Council with a term to expire 6-13-2006. Ms. Menguc will fill the unexpired term of Rebecca Morton as Under 18 Youth Representative and (2) recommending the appointment of Becky Hughes, 7th District Representative, to the Parks and Recreation Advisory Board with a term to expire 1-14-2009.

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The report from the Div. of Sanitary Sewers for the month of March, 2005 was received and ordered filed.

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Mr. Foster Ockerman, Jr., attorney for Bluegrass FLOW, spoke concerning whether there was any binding effect with the documents presented at the meeting on the Ky-American Water Co. issue. He stated that the letters attached to the resolution had not been approved by RWE/Ky-American Water Co.'s Board, and requested that the Council delay any decision until the ballot vote on the issue was done.

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Mr. Robert Dalton, 520 Douglas Avenue, a member of the Georgetown Street Neighborhood Association, spoke about the Great American Cleanup that was

scheduled for their area, the neighborhood development bond program, and the beautification of Douglass Park.

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Fire Chief Robert Hendricks stated that Claude Newby has committed the offense of Absence without approved leave for the second time within one year in violation of KRS 95.450 in that on January 30, 2005 Firefighter Newby did not arrive at work until 0945 hours, that by Div. of Fire and Emergency Services policies (Policy #571.70) such actions constitute being Absent Without Approved Leave, that this is the second offense of this nature, the first offense occurring May 17th, 2004, and that the appropriate punishment for this conduct is 120 hours suspension without pay.

Upon motion of Ms. Shafer and seconded by Ms. Gorton, the disciplinary action was approved by unanimous vote.

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Fire Chief Robert Hendricks stated that Anthony Bingham has committed the offense of Absent without approved leave for 8 hours in violation of KRS 95.450 in that on the 12th day of February, 2005 he did not report nor attempt to call to report out until 8 hours after his scheduled shift was to begin, that by Div. of Fire and Emergency Services policies (Policy #571.70) such actions constitute being Absent Without Approved Leave, and that the appropriate punishment for this conduct is 120 hours suspension without pay.

Upon motion of Ms. Shafer and seconded by Ms. Gorton, the disciplinary action was approved by unanimous vote.

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Fire Chief Robert Hendricks stated that Patrick Conn has committed the offense of Absence without approved leave in violation of KRS 95.450 in that on February 8, 2005 Firefighter Conn failed to report to work for a tour of duty on EC-9, and that the appropriate punishment for this conduct is Written Reprimand.

Upon motion of Ms. Shafer and seconded by Ms. Gorton, the disciplinary action was approved by unanimous vote.

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The Council adjourned at 9:40 p.m.

Clerk of the Urban County Council